We know of no such case. Nor have petitioners suggested otherwise. All of the authorities that they cite (Pet. 9-15) involve conscientious objector claims, raised for the first time by servicemen following their enlistment or induction, which were denied only after the claim had been fully considered by the military. Not one involves a summary denial by the military of such a claim because it had earlier been tendered to Selective Service during the "hiatus period" discussed in *Ehlert*.

Nor is that the situation in the instant cases.[2] If, as petitioners speculate, the Army should in the future refuse to consider post-notice conscientious objector claims under the Department of Defense directive (1300.6) and its own regulations (AR 635-20), relief should be by habeas corpus after induction, and reconsideration of *Ehlert* should appropriately await such time as general disregard by the military of the assurances relied on in *Ehlert* is established. See *Nix* v. *United States*, 437 F.2d 746 (C.A. 9), certiorari denied, No. 1543, October Term, 1970, decided May 24, 1971; *Bender* v. *United States*, C.A. 9, No.

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[2] Petitioners did not submit to induction. Had they done so, and had the Army then summarily denied their claims on the ground that they had been tendered to Selective Service during the "hiatus period," they could have obtained appropriate relief in habeas corpus proceedings. Cf. *Morrison* v. *Larsen*, C.A. 9, No. 26,869, decided July 28, 1971, where such an argument was considered and rejected by the Ninth Circuit on the ground that the *Ehlert*-type claim had been properly denied by the military because it rested on beliefs that ripened well before the claimant was mailed his notice of induction.

24,312, decided April 29, 1971, certiorari denied, No. 284, October Term, 1970, decided May 17, 1971.[3]

CONCLUSION

It is therefore respectfully submitted that the consolidated petition for writs of certiorari should be denied.

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[3] Petitioners' contention that servicemen seeking discharge from the military on grounds of conscientious objection are sometimes denied procedural due process because their claims are considered by hearing officers who are not "knowledgeable," contrary to the requirement in DOD 1300.6 and in AR 635-20, is not relevant to the instant cases. Such an infirmity in the administrative processing of conscientious objector claims is not present here, since petitioners refused to submit to induction; thus the military never had an opportunity to consider their claims. If such a case should arise in which that situation does exist, this Court can appropriately consider the issue in a habeas corpus action at that time.

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